

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
Preserving Post-Disaster Communications) RM-11327
)

REPLY COMMENTS ON
PETITION FOR RULEMAKING
TO PRESERVE POST-DISASTER COMMUNICATIONS

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costs. Petitioners again urge the Commission to act swiftly in adopting the proposal *before* another disaster occurs and it is forced to consider ad hoc recovery plans.

I. THE COMMISSION MUST ACT QUICKLY TO ENSURE THAT PROVIDERS ARE ADEQUATELY PREPARED IN ADVANCE FOR FUTURE EMERGENCIES

A. THE COMMISSION SHOULD NOT RELY ON AD HOC PROCEDURES FOR HANDLING DISASTER-RECOVERY PLANS

Despite the Commission's and carriers' most valiant efforts after Hurricane Katrina, hundreds of thousands of customers still do not have access to their landline phone numbers in the affected area, either because the lines remain out of service or because the customers have been displaced to other locations.¹ As the Petition for Rulemaking highlighted, more than three million customers lost service, and almost 10% of those lines, or 250,000 customers, were still out of service one month after the storm.² This is hardly compelling evidence that the current disaster recovery procedures are sufficient, as the ILEC Commenters imply.³ While Petitioners applaud the Commission's speedy action to suspend certain regulations during the Katrina aftermath, Petitioners do not believe that relying on similar ad hoc solutions in future emergencies is wise or sufficient. Moreover, the Commission has obviously already determined that such ad hoc

¹ See Bill Quigley, *Eight Months After Katrina*, Common Dreams News Center (April 2006) (<http://www.commondreams.org/views06/0426-23.htm>).

² Evslin Consulting and pulver.com, Petition for Rulemaking to Preserve Post-Disaster Communications, at 2 (March 13, 2006) ("Petition").

³ AT&T Comments at 4; BellSouth Comments at 2-3; Sprint/Nextel Comments at 2.

treatment is inadequate, as evidenced by its establishment of the independent expert panel reviewing Katrina disaster relief and the creation of the FCC Public Safety/Homeland Security Bureau. While supporting the work of these groups, Petitioners believe that time is of the essence in preparing for the upcoming hurricane season, just a month away.

Petitioners also disagree with the ILEC Commenters' conclusion that the desire for flexibility during emergency circumstances precludes adoption of Petitioners' proposal.⁴ While each emergency may have individual nuances to address, this does not mean that the Commission should wait until another emergency occurs to consider how best to restore communications capabilities to customers. In other words, the time to assess the proper strategy to employ during an emergency is *not* in the middle of that emergency. Rather, the right time is now to decide how to handle those emergencies so that personnel and resources are properly prepared and focused during the emergency. With a well-developed plan established beforehand, communications capabilities can be readily restored to customers, wherever they may be located.

AT&T argues that a "one-size fits all" approach requires single rigid response;⁵ however, Petitioners' proposal does not recommend a single solution, but provides for a choice of two, either of which may quickly restore communications capabilities to customers. The ILECs provide no specific data detailing why they could not provide either voicemail or number porting, but instead argue that it

⁴ *Id.*

⁵ AT&T Comments at 4.

might not be technically feasible and that they certainly would incur additional costs. Such vague, resistant responses serve only to undermine the immediate and broader public good.

Furthermore, while Petitioners do not mean to imply that there could be no other possible means for carriers to restore service to customers, the two options proposed *are* possible within the ILEC networks and can be implemented right now before the next hurricane season. Petitioners encourage providers to continue investigating other disaster-recovery procedures within their companies and in conjunction with other carriers. In the meantime, however, the Commission should not wait while conducting a lengthy review, knowing that in all likelihood there will be other significant hurricane-related outages in just a few short months.

B. ADVANCED PREPARATION IS NECESSARY TO IMPLEMENT AN APPROPRIATE EMERGENCY PLAN

The Commission must adopt a disaster-recovery plan that clearly defines provider responsibilities and allows them to prepare in advance to foster the success of that plan. The ILEC Commenters argue that the Commission has sufficient authority to allow number porting across rate centers and LATA boundaries and can do so in a future emergency;⁶ however, the results of number porting during Katrina show that advanced preparation, coordination, and customer education would allow this solution to provide the greatest benefit to consumers and to eliminate or reduce some of the downsides identified by the NANC LNPA Working Group. Petitioners strongly disagree with the ILECs'

⁶ AT&T Comments at 4; BellSouth Comments at 2-3; Sprint/Nextel Comments at 2.

conclusion that those unintended downsides prevent using a similar strategy in future emergencies. Furthermore, even the NANC LNPA Working Group does not agree with the ILEC Commenters' conclusion. Despite those unintended consequences, the report still notes that "[t]he use of porting and pooling to move numbers to working switches is a viable means of temporary service restoration even if the numbers are moved out of LATA."⁷

AT&T argues that the Commission should not require carriers to port numbers outside of rate centers for all customers because it may not be feasible.⁸ Petitioners, however, do not propose that providers be required to port all affected numbers either within a rate center or beyond. The proposal would merely require providers to provide expedited number porting to customers who request this service, and then only if the provider did not provide emergency voicemail services. The tendency seems to be for carriers to heavily focus, as indicated in the comments, on restoring damaged facilities, and while this is necessary, the goal of the Petition is to require carriers to focus on the needs of customers in maintaining their communications capabilities. Moreover, the proposal does not require a provider to automatically port any phone numbers, but does require providers to give those customers who request porting a high priority and expedited service.

Additionally, Petitioner's proposal regarding emergency voicemail services requires preparation in advance of an emergency and cannot be

⁷ North American Numbering Council Local Number Portability Administration Working Group, *Final Report on Out of LATA Porting & Pooling For Disaster Relief After Hurricane Katrina*, at 14 (April 12, 2006).

⁸ AT&T Comments at 3.

implemented merely through a Commission waiver order during an emergency. In order for a provider to provide appropriate emergency voicemail services, it must educate its customers and prepare its networks and processes beforehand. In this way, Petitioners fully support a flexible approach to implementing the emergency proposal. For example, after Katrina, numerous companies offered to provide emergency services, including voicemail, to affected customers.⁹ Now is the time for the ILECs to contact those companies and ask for their commitment to assist in the future, either gratis or fee-based. In that way, the ILECs are not locked into providing services on their own network, but can leverage the abilities of other providers located throughout the country in a systematic, planned manner. Additionally, the ILECs could decide to work together to establish a disaster recovery plan in which the other ILECs assist an ILEC whose territory is affected by an emergency. For example, Verizon provided banks of telephones for use by Katrina victims in BellSouth's territory.¹⁰ While these offers of assistance are commendable and not to be downplayed, Petitioners believe that providing emergency voicemail service to customers would provide a even higher level of ongoing connectivity. So, again, now is the time for the ILECs to develop a plan for how each of them could support the others in providing number porting or voicemail during a time of crisis.

Sadly, recent disasters have shown that our nation's communications systems are not disaster-proof and have underscored the significant role of

⁹ Verizon Comments at 3; VON Comments at 7-9.

¹⁰ Verizon Comments at 3.

communications in the lives of people everywhere. While it may have been acceptable to stick our heads in the sand in the past and wait to deal with each emergency as it arises, this is simply not an option now. The telecommunications industry does not have the luxury of ignoring the possibility of disaster or wading through lengthy regulatory procedures searching for the “perfect” foolproof solution. While in a perfect world we would hope that providers would not need to spend the time and money to prepare in advance for natural disasters and terrorist attacks that cripple communications networks, recent history bears witness to the imprudence of that approach.

II. THE ADDITIONAL COSTS OF IMPLEMENTING THE PROPOSED EMERGENCY PROTOCOLS ARE MINIMAL AND SHOULD NOT HINDER ADOPTION OF PETITIONERS’ PROPOSAL

Petitioners strongly urge the Commission to recognize the ILEC Commenters’ cost protests for what they are – red herrings to discourage the Commission from imposing any requirements on them. The additional storage requirements for preparing for and providing emergency voicemail services, even to thousands or millions of affected customers, are quite minimal. There are many providers of everyday free email services (*e.g.*, Yahoo, Google, MSN/Hotmail), and numerous providers offered to provide free voicemail services to affected Katrina victims.¹¹ How or why would these providers do so unless the costs were minimal?

¹¹ See *Community Voice Mail to Launch "Disaster Relief System" providing 80,000 Free Voice Mail Numbers to Displaced Hurricane Katrina Victims* (available at <http://www.cvm.org/media/inthenews.htm>); *Twin Cities Community Voice Mail: Free Voicemail Available to People Displaced by Hurricane Katrina* (available at <http://www.tccvm.org/TCCVM->

And why are all these organizations offering to provide free voicemail service when the customers' own communications providers will not?

Rather than focusing merely at anecdotal indications of the minimal costs, though, Petitioners have attempted to quantify the costs of additional storage necessary to provide emergency voicemail services. Although the exact configuration for storing voicemail and customer account information would be up to the individual carriers, some bounds can be put on the costs involved by looking at the retail price of disk storage (although individual carriers would likely be able to obtain much lower prices due to volume discounts). For example, a 250 gigabyte Seagate hard-drive is currently available through Tiger Direct for \$120,¹² resulting in a price per megabyte of additional storage of \$.00048. Although providers may already have free space in their customer information record to store voicemail access information, such as passwords, let us assume for this illustration that 1000 bytes (.001 megabytes) of additional storage capacity is needed to capture this information. This would result in an incremental capital cost of \$.00000048 per customer for extra storage to become prepared to offer emergency voicemail.

[KatrinaFactSheet.pdf](#)); *Air America Radio's Public Voicemail: available for disconnected people in the wake of Katrina* (available at <http://www.airamericaradio.com/katrina/voicemailinfo.html>); *Goodwill Industries International, Inc.: Free Voicemail Service For Gulf Coast Residents Displaced By Hurricanes, 100,000 Personal Voicemail Boxes Ready for Distribution* (available at <http://www.goodwill.org/page/guest/about/newsroom/newsreleases/archivednewsreleases/nr102505001>); *VON reporter's notebook: Contactlovedones.org helps displaced Katrina victims* (available at <http://www.networkworld.com/news/2005/092105-von-notebook.html?prl>).

¹² See <http://www.tigerdirect.com/applications/SearchTools/item-details.asp?EdpNo=2143105>. This is the retail price for the hard-drive before the \$70 rebate currently being offered..

To actually provide the service, additional capacity must also be obtained and allocated for customers to record outgoing announcements and receive voice mail messages stored during an emergency. Petitioners contend that ten megabytes of storage per customer is more than adequate for this emergency voicemail service, resulting in a cost (with retail prices) of approximately \$.0048 per customer. Although a provider may allocate more than ten megabytes for customer subscribers, ten megabytes should be sufficient to store a reasonable amount of messages before the mailbox becomes “full” if it is not accessed and cleared. Even if we assume a doubling of these costs to allow for additional cabling, controllers, and other equipment, the total cost does not reach even one cent per customer.

The ILEC systems currently have the ability to detect a system overload and re-route or block traffic early during a call, as shown by AT&T’s call blocking in New York on 9/11.¹³ Using this technology, a carrier can provide the emergency voicemail service proposed by Petitioners. When an emergency or disaster-related system outage (or overload) is detected, instead of “call-gapping” (or blocking), the network would forward the call to a designated location where voicemail services would be stored. The ILECs could designate, say, 2-3 specific network locations within each of their regions (but geographically distant so as to not be likely to go down at the same time during a physical disaster) where they would invest in spare capacity in order to provide emergency voicemail. This would alleviate the need to obtain excess capacity in every facility throughout the country.

¹³ See Lisa Guernsey, *Keeping The Lifelines Open*, New York Times (Sep 20, 2001).

Only those facilities designated as ones for disaster recovery would need to be upgraded, thereby dramatically reducing the already minimal storage costs. Furthermore, a carrier could provide voicemail services to customers in this way even if the facilities actually serving those customers were down. There is no technical requirement that the voicemail service reside on the facilities closest to and serving the customer. In fact, voicemail services may be provided to customers from their own provider or a totally separate provider with facilities located nearby or somewhere across the country. Thus, if an ILEC does not wish to host the emergency voicemail services anywhere on their own network or believes their own personnel would be better utilized in a disaster to repair their own networks rather than manage the voicemail service, then the carrier could contract with a third party now to provide the service when needed.

Regardless, the Commission need not work out all the details for implementing the solution within each carrier's network. This is where Petitioners strongly encourage flexibility, recognizing that each carrier's network is unique and that collaborative efforts might best suit carriers in providing these services. The Commission need only understand that the ILEC protests are baseless because their networks are capable of providing these services now with minimal additional upgrade costs. As the illustration above shows, the costs of obtaining additional capacity is so minimal that it is almost absurd for the ILEC Commenters to submit the cost argument as a credible barrier to providing this service.

This also reveals that the ILEC Commenters are the ones that have not given any true “consideration of costs of creating and maintaining spare capacity”¹⁴ or they would have realized that they were *de minimus*. Instead, the ILEC Commenters only provided a logically unsupportable argument (and in contravention of good public policy) that this will cost money so they do not want to do it. It is enlightening to contrast the free voicemail offerings of other providers and relief organizations after Katrina with the resistant attitude of the ILECs. Many organizations saw the clear benefit of providing this service to Katrina victims who were not even their customers, while the ILEC Commenters have summarily rejected Petitioners’ proposal, resisting expending any additional capital to prepare their own customers for an emergency. There is an unmistakable benefit in educating customers and preparing in advance to provide this service for their customers, but the ILECs instead remain committed to raising frivolous and unquantified cost arguments in defense of their current bureaucratic processes.

III. DISASTER-RECOVERY SOLUTIONS NEED NOT BE 100% FOOLPROOF TO BE EFFECTIVE AND SHOULD BE FOCUSED ON RESTORING COMMUNICATIONS BETWEEN PEOPLE, NOT JUST BETWEEN PLACES

As evidenced by the multitude of public comments filed in this docket in support of Petitioners’ proposal, people value their ability to remain connected to their friends and families in an emergency. On the other hand, the ILEC Commenters have dissected Petitioners’ proposal, implying that any proposal that would not provide restored service to 100% of customers should be rejected. A

¹⁴ AT&T Comments at 6.

solution, however, need not be foolproof to be effective in meeting its goal. And the primary communications goal in emergency circumstances should be to reconnect as many people as possible with the shortest time lapse. As both the Petitioners and Commenters note, a combination of communications methods is optimal to ensuring continued connectivity.¹⁵ However, many customers cannot afford multiple communications services and, regardless of suggestions to diversify, are left essentially stranded without their landline communications. Short of having a wireless phone or portable IP-based service, Petitioners believe providing voicemail or number porting provide the next best ways for customers to maintain access to their phone numbers so they can remain connected to the outside world.

The ILEC Commenters point to the recent report issued by the NANC LNPA working group to support their protests against providing number porting per Petitioners' proposal.¹⁶ Although there were some unintended results from the widespread porting that occurred after Katrina, Petitioners believe that these may be mitigated through advanced preparation, coordination, and customer education. The ILEC Commenters acknowledge that wireless carriers voluntarily provide number porting in two and a half hours, rather than the four-day interval imposed by wireline carriers. Although wireline carriers have not volunteered to reduce the four-day interval to match the wireless interval, there is little reason why they should not be able to do so, other than their own bureaucratic internal processes. Moreover, Petitioners' proposal would only require providers to expeditiously port

¹⁵ Petition for Rulemaking at 9; BellSouth Comments at 6.

¹⁶ AT&T Comments at 5; BellSouth at 8; Verizon Comments at 5.

numbers upon request if they declined to provide emergency voicemail services. The Petitioners considered the voicemail portion of the proposal to be the most effective means of providing emergency communications to customers with out-of-service landlines, with the porting portion of the proposal as a backstop or a alternative should providers decline to comply with the voicemail requirement. Thus, the Commission should consider Petitioners' proposals as separable, if it decides not to mandate expedited emergency number porting.

Several ILECs additionally argue that voicemail should not be provided because customers may not have outgoing phone service to either access their voicemail or leave an outgoing voicemail message.¹⁷ However, the mere fact that some customers may still be left without communications capabilities does not undermine the proposal. The ILEC Commenters seem to imply if a solution is not 100% foolproof, then it is not worth implementing, even if it would provide connectivity to a vast majority of those impacted. Yet, the ILECs conversely contend that emergency resources would be better spent restoring landline services to locations that might have been destroyed or condemned, making the repair of these facilities almost worthless since customers could not access them. So, using similar logic, should the ILECs also neglect that effort since it will not guarantee restored service to *all* affected customers? After all, what good is that service if the customers are not there to utilize it? The Commission can certainly see through this specious reasoning.

¹⁷ AT&T Comments at 6 n.12; Verizon Comments at 3.

Furthermore, as a practical matter, customers can easily use other means of accessing their voicemail than having their own outgoing landline phone service. Those customers may borrow a mobile phone or use a landline phone from a friend, or, as in the case with Katrina victims, they could use one of the donated outgoing phone banks established by volunteer providers. In any case, these customers will want to have access to their original phone number so that they can maintain contact with callers who may not know other ways to reach them. While it may not afford real-time communication in all cases, having access to voicemail would allow people to stay in contact, even in some small way, with their life prior to the disaster. There are still hundreds of thousands of people displaced from the Katrina area some nine months later, many of whom have no access to their telephone *number* because they cannot access their landline service. Thus, voicemail service is infinitely more meaningful to those customers than a landline service connected to a home or business that may have been destroyed or condemned. Furthermore, voicemail service can essentially travel with a customer whether he is in a shelter or moves temporarily outside of the disaster area.

Instead of recognizing the value in providing these alternate services, the ILEC Commenters argue that their resources and personnel are better spent working to restore damaged facilities, rather than establishing services that would restore actual communications between customers and their families outside the disaster area. Certainly no single solution will provide ideal communications services to all affected persons during an emergency, but Petitioners' proposal

would dramatically increase communications possibilities to affected customers, even when communication links between certain geographic locations remain blocked. Restoring service to a physical location has no value if the customer cannot access that location. It is much more important to ensure connections between people than just between places.

IV. CONCLUSION

For the foregoing reasons, Petitioners urge the Commission to take speedy action to consider and adopt the proposal.

Respectfully submitted,

/s/

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